

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FORTUNE GROWERS, LLC, a
Nevada limited liability company,

Plaintiff,

vs.

SOUTHERN CITRUS, INC., a
California corporation; HANA GIBO,
an individual; and SABAH
YOUKHANNA, an individual,

Defendants.

Case No.: 07CV2088-JAH

**PRELIMINARY INJUNCTION
ORDER**

Plaintiff's Motion for Preliminary Injunction under Federal Rule of Civil Procedure 65(a) came before this Court on Wednesday, November 7, 2007 at 10:30 a.m., after proper notice was issued. Counsel for the Plaintiff appeared telephonically. Defendants failed to appear, despite having been properly served with notice of this hearing.

On or about October 31, 2007, Plaintiff commenced the above-entitled action against

1 Southern Citrus, Inc. ("Southern Citrus"), Hana Gibo, and Sabah Youkhanna (collectively
2 referred to as the "Defendants"), seeking to enforce payment from the statutory trust imposed
3 by the Perishable Agricultural Commodities Act, 1930, as amended, 7 U.S.C. §499e(c)(2)
4 ("PACA"). As part of its action, Plaintiff sought injunctive relief against Defendants to enjoin
5 and restrain them from violating the provisions of PACA and from dissipating assets subject
6 to the PACA Trust.
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9 On or about October 31, 2007, this Court issued a Temporary Restraining Order
10 enjoining Southern Citrus, its agents, officers, subsidiaries, assigns, banking and financial
11 institutions, and all persons in active concert or participation with said Defendant, including
12 Hana Gibo and Sabah Youkhanna, from alienating, dissipating, paying, or assigning any PACA
13 trust assets, without agreement of the parties or until further order of this Court, or until said
14 Defendant pays Plaintiff the sum of \$115,266.40 by cashiers' check or certified check.
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17 This Court scheduled a hearing for entry of a Preliminary Injunction and ordered the
18 Plaintiff to serve a copy of the Temporary Restraining Order on Defendants.

19 Plaintiff has served copies of the Temporary Restraining Order on all Defendants.
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21 On Wednesday, November 7, 2007 at 10:30 a.m., the hearing on Plaintiff's Motion for
22 Preliminary Injunction came before this Court.

23 Based upon Plaintiff's pleadings, the Affidavit of Luis Solarte, and the supporting
24 documents, the Court finds Plaintiff has shown: (1) it is likely to succeed on the merits; (2)
25 there is a risk of irreparable harm if the injunction is not granted; (3) the balance of hardships
26 favors issuance of the injunction; and (4) issuance of the injunction is in the public interest.
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28 See Roe v. Anderson, 134 F.3d 1400, 1402 (9th Cir. 1998) (identifying the requirements for

1 issuance of a preliminary injunction).

2 Accordingly the Court concludes that a Preliminary Injunction should be issued.

3 For the reasons orally stated by the Court on the record and based upon the foregoing,

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5 **IT IS HEREBY ORDERED** that:

6 1. Plaintiff's Motion for Issuance of Preliminary Injunction is GRANTED.

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8 2. Plaintiff's Motion to Consolidate the Trial on the Merits with Hearing on Preliminary
9 Injunction is DENIED.

10 3. Southern Citrus and its agents, officers, subsidiaries, assigns, financial and banking
11 institutions, and all persons in active concert or participation with them or who receive actual
12 notice of this Order are enjoined and restrained from dissipating, paying, transferring, assigning
13 or selling any and all assets covered by or subject to the trust provisions of the PACA without
14 agreement of the parties or until further order of this Court. Under §499e(c)(2) of PACA, the
15 assets subject to this Order include all of the assets of Defendant Southern Citrus, including
16 but not limited to, any and all bank accounts at any and all financial institutions, including
17 but not limited to those accounts at Wells Fargo Bank, unless Defendants can prove to this
18 Court that a particular asset is not derived from perishable agricultural commodities,
19 inventories of food or other products derived from perishable agricultural commodities or
20 receivables or proceeds from the sale of such commodities or products.
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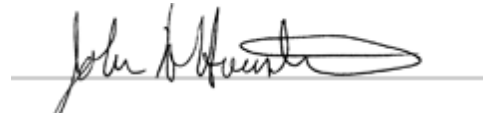
22 4. The \$115,266.40 in PACA trust assets belonging to Plaintiff and in the possession
23 of Defendant shall serve as Plaintiff's security for this injunction as required by Federal Rule
24 of Civil Procedure 65(c).
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1 5. This Order is binding upon Defendant Southern Citrus, and its officers (including
2 Hana Gibo, and Sabah Youkhanna), agents, servants, employees, banking and financial
3 institutions, attorneys and/or all other persons acting in concert or participating with it who
4 receive actual notice of this Order.
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6 6. This Order shall continue in full force and effect, except upon further Order of this
7 Court.
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9 **IT IS SO ORDERED.**
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11 DATED: November 9, 2007
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14 HON. JOHN A. HOUSTON
15 United States District Judge
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